

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Chief Patrick Lynn (954)693-8320

**PREPARED BY:** Police Administration/Code/af

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** 2

**ITEM REQUEST:** Schedule for Council Meeting

**TITLE OF AGENDA ITEM:** MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO.09-848 FROM \$79,173.99 IN AMOUNT APPROVED AND DETERMINED BY TOWN COUNCIL; AND PROVIDING AN EFFECTIVE DATE.

**EXECUTIVE SUMMARY:** To authorize the approval request for mitigation of a code compliance lien in case no.09-848 From \$79,173.99 in amount determined and approved by council. The Town of David Code Compliance Division has determined that code violation 6-9.2: Abandoned Real Property Registration and 12-33 (U): Nuisance-Health Safety Welfare has been corrected. The code compliance mitigation guideline has proscribed the mitigation in the amount of \$40,350.26, the Town of Davie Code Compliance Division Special Magistrate has recommended a mitigation amount to \$1,000.00. If the amount determined and approved by Town Council is not paid to the Town within 45 days of enactment of this resolution then the lien shall revert to the original amount of \$79,173.99.

**KEY POINTS:**

- Enter Key Points Here

**CONCURRENCES:**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account name and number:

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments:

**RECOMMENDATION(S):** Motion to approve resolution

**Attachment(s):** Resolution, Summary Sheet, Special Magistrate Recommendation Regarding Mitigation, Letter from Leslie Moya, Realtor, Mitigation Application Review Form, Worksheet, Mitigation Request Summary, Lien

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO.09-848 FROM \$79,173.99 IN AMOUNT APPROVED AND DETERMINED BY TOWN COUNCIL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Leslie Moya on behalf of Mayra Inoa, has requested a mitigation of a code compliance lien from \$79,173.99 to \$1,000.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of code sections 6-9.2 and 12-33(U) are corrected; and

WHEREAS, the Town of Davie Code Compliance Division's mitigation guidelines have provided a mitigation amount equal to \$40,350.26; and

WHEREAS, the Town of Davie Code Compliance Division Special Magistrate has recommended a mitigation amount equal to \$1,000.00; and

WHEREAS, the Town Council is agreeable to such mitigation of the code compliance lien.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain code compliance lien arising out of Case No 09-848 in the amount of

\$ 79,173.99 against Mayra Inoa, is hereby mitigated in amount approved and determined by Town Council.

SECTION 2. That this mitigated amount approved and determined by the Town council will be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of not be paid within the specified time the lien shall revert to the original amount of \$ 79,173.99.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010

\_\_\_\_\_  
MAYOR/COUNCILMEMBER  
ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO.09-848 FROM \$79,173.99 IN AMOUNT TO \$\_\_\_\_\_; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Leslie Moya on behalf of Mayra Inoa, has requested a mitigation of a code compliance lien from \$79,173.99 to \$1,000.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of code sections 6-9.2 and 12-33(U) are corrected; and

WHEREAS, the Town of Davie Code Compliance Division's mitigation guidelines have provided a mitigation amount equal to \$40,350.26; and

WHEREAS, the Town of Davie Code Compliance Division Special Magistrate has recommended a mitigation amount equal to \$1,000.00; and

WHEREAS, the Town Council is agreeable to such mitigation of the code compliance lien.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain code compliance lien arising out of Case No 09-848 in the amount of \$ 79,173.99 against Mayra Inoa, is hereby mitigated in amount to \$ \_\_\_\_\_.

SECTION 2. That this mitigated amount of \$ \_\_\_\_\_ be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$ \_\_\_\_\_ not be paid within the specified time the lien shall revert to the original amount of \$ 79,173.99.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

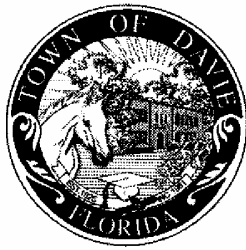
PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010



TOWN OF DAVIE  
POLICE DEPARTMENT  
CODE COMPLIANCE DIVISION

1230 SOUTH NOB HILL ROAD • DAVIE, FLORIDA 33324  
PHONE: 954.693.8237 • FAX: 954.693.8399 • WWW.DAVIE-FL.GOV



**Code Compliance Mitigation Case No. 09-848**

- 1. Town Council District Number:** 2
- 2. Property Location:** 7751 NW 39 Street
- 3. Notice of Violation Issuance Date:** June 23, 2009
- 4. Code Violation Sections:** 6-9.2 Abandoned Real Property Registration  
12-33(U): Nuisance – Health Safety Welfare
- 5. Notice of Violation Hearing Date:** July 28, 2009  
Special Magistrate Final Order issued  
and respondent complied. *NOTE: Final  
Order remains in force for five (5) years  
from date of issuance.*
- 6. Non-Compliance Notice of Violation Date:** October 15, 2009
- 7. Non-Compliance Hearing Date:** October 27, 2009  
Special Magistrate Order Imposing  
Municipal Code Enforcement Fine for  
75 days from 7/29/09 thru 10/27/09.
- 8. Total Fine:** Two (2) violations @ \$75,000.00  
\$500/day per violation equals \$1000/day  
times seventy-five (75) days.
- 9. Mitigation Guideline Amount:** \$40,350.26
- 10. Special Magistrate Mitigation Hearing:** May 11, 2010
- 11. Town Base Fee Costs:** \$1,300.00

MEAH ROTHMAN TELL, P.A.  
11081 N.W. 12 Drive  
Coral Springs, Florida 33071  
Tel: (954) 733-5000  
Fax: (954) 733-2320

J.D./M.B.A. Columbia University LL.M. Taxation	Florida Supreme Court Certified Civil Circuit and Family Court Mediator
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May 14, 2010

Daniel Stallone, Esq.  
Supervisor  
Code Enforcement  
Town of Davie  
1230 South Nob Hill Road  
Davie, Florida 33324

**Re: Case No. 09-0848**  
**Respondents Mayra L. Inoa and Deutsche Bank National Trust Company**  
**Property located at 7751 N.W. 39<sup>th</sup> Street, Davie, Florida**  
**Owner: Mayra L. Inoa**

**Recommendation Regarding Request for Mitigation of Fine**

Dear Mr. Stallone:

The request for Mitigation of Fine in the above-captioned case came before me on May 11, 2010.

The October 28, 2009 Order which I entered imposed fines in the amount of Seventy-Five Thousand (\$75,500.00) Dollars based upon the following violations:

(a) Section 6-9.2 (failure to file abandoned real property registration), Fine \$37,500.00

(b) Section 12-33 (U)(failure to maintain the pool, which created a neighborhood nuisance), Fine \$37,500.00 .

A \$500.00 Cost recovery fee was also imposed.

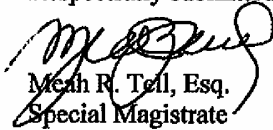
Ms. Leslie Moya, the realtor associated with Trust Group Real Estate, who has been maintaining the property appeared at the hearing on May 11, 2010. Ms. Moya explained that since Ms. Inoa was out of work she and her husband could not continue to pay their adjustable rate mortgage and support five small children. The owner made

several efforts to obtain a loan modification, which was denied by the lender. The lender commenced foreclosure proceedings but did not file an abandoned real property registration. As a result, \$37,500.00 of the fines were directly attributable to the failure of Deutsche Bank National Trust Company to register the abandoned property, and not the property owner. Ms. Moya explained that the Inoa family moved back to New Jersey and that her company was maintaining the property, cutting the lawn, and upkeeping the pool and yard for over two years after the Inoa family vacated the property. Apparently, neither Ms. Inoa nor Ms. Moya realized that the pool pump was stolen which caused the pool to be non-functional. According to Ms. Moya, Ms. Inoa may have overlooked the mail from the Town of Davie which she thought was another threatening foreclosure letter.

Ms. Moya has arranged a short sale of the property. At this time, Ms. Inoa requested that the lien be reduced to \$1,000.00 because she is hopeful that the prospective purchaser will pay this amount to purchase the property at the short sale. Absent this short sale, it is likely that the lender will continue the foreclosure proceedings, and that the Town of Davie's lien may be foreclosed. Ms. Moya stated that the payment of any lien in excess of \$1,000.00 may cause the buyer to walk away from the short sale.

Accordingly, it is recommended that in light of the foreclosure proceedings, that the Town Council mitigate the fines to \$1,000.00 in connection with the pending short sale.

Respectfully submitted,



Mark R. Tell, Esq.

Special Magistrate

Cc: Mayra Inoa

Leslie Moya





## Trust Group Real Estate

04/21/2010

Reference: CASE#09-0848  
7751 Nw 39 St.  
Davie, FL 33024

To whom it may concern,

Ms. Mayra Inoa, contracted our agency to assist her in selling her home since she was denied several times by her lender on a loan modification.

Ms. Inoa was out of work, and with her husband only working at the time, it made it very difficult for her to keep up with her adjusting mortgage payment.

Her only option at that time was for her & her family to move back to their hometown in N.J. to start all over again.

We have since been maintaining the property, cutting the lawn & up keeping the pool & yard since over 2 years ago, when they vacated the property.

Sometime during 2009, the pool pump was stolen and this caused the pool to become nonfunctional.

It is very possible that Ms. Inoa may have overlooked the mailer sent from code compliance division with the thoughts that it could have been another threatening foreclosure letter from her mortgage company.

At this time we are offering to pay \$1000.00 to settle the lien.

We are pleading you to please help us resolve this matter as promptly as possible, since we are coming to an expiration deadline with the mortgage lender for closing on our subject property.

Thank you for your time & consideration with this matter.

Sincerely,



Leslie Moya

**TOWN OF DAVIE  
MITIGATION APPLICATION REVIEW FORM**

**SECTION 1:** (To be completed by Code Compliance Supervisor)

1. Name of Respondent(s)/Applicant(s): Mayra L. Inoa and Deutsche Bank National Trust Company
2. Case Number: 09-848
3. Total amount of Code Compliance Lien(s)/Administrative Fine(s): \$79,173.99
4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections? (Yes) No  
(If the answer to Question 4 is no, do not complete Question 5, as compliance is a prerequisite to further processing.)
5. Mitigation amount obtained from the Town's Mitigation Guidelines: \$40,350.26

**SECTION 2:** (To be completed by Respondent(s)/Applicant(s))

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s):  
pool pump was stolen, this caused the pool to become non-functional. we have been cutting + maintaining the property yard since the vacancy.  
Signature: [Signature] Date: 4-21-2010
2. Please indicate the amount which you request the Code Compliance Lien(s) be mitigated to: \$ 1000.00

**NOTE:** The Code Compliance Division will make a recommendation to the Town Council to either accept or deny your mitigation request. Please be advised that if you request mitigation to an amount less than the amount recommended by the Code Compliance Division in Section 1, Question 5, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the recommendation of the Department Head as set forth in Section 3 below, the matter will be referred to a Special Master who will make a recommendation to the Town Council. The decision to grant or deny the request for mitigation will be made by the Town Council. In the event the Town Council approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

**SECTION 3:** (To be authorized by Department Director)

The Code Compliance Division recommends that the specific mitigation request made by the Respondent(s)/Applicant(s), in Section 2, to mitigate the Code Compliance Lien(s)/Administrative Fine(s) in Case Number #09-848 from a total of \$79,173.99 to the amount requested by the Respondent(s)/Applicant(s) which is \$ 1000.00, may be considered for approval.

[Signature]  
Code Compliance Official

5-20-10.  
Date

TOWN OF DAVIE CODE COMPLIANCE  
MITIGATION WORKSHEET  
CASE 09-848

Respondent(s): Mayra L. Inoa and Deutsche Bank National Trust Company

Address: 7751 NW 39 Street

Fine/Lien Amount: \$78,673.99

Mitigation Recommendation:  
(as per approved mitigation guidelines)

A) 25 % of \$ 78,673.99	=	\$ 19,668.50
B 12 % for each period of 60 days of non-compliance or part thereof For a total of seventy three (73) days	=	\$ 18,881.76
C) Mitigation Base Fee (Town costs incurred by Code Compliance)	=	\$ 1,300.00
D) Cost Recovery	=	<u>\$ 500.00</u>
Total	=	\$ 40,350.26

### **MITIGATION REQUEST SUMMARY**

DATE: May 19, 2010

NAME: Mayra L. Inoa and Deutsche Bank National Trust Company

ADDRESS: 7751 NW 39 Street

CASE: 09-848

#### **SUMMARY:**

Date respondent cited: June 23, 2009

Date of Final Order: July 29, 2009

Non-Compliance Hearing(s): October 27, 2009

Fine/Lien(s) Imposed with accruing interest and cost recovery: \$ 79,173.99

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Department Guideline recommended mitigation amount: \$ 40,350.26

Amount the respondent desires to pay: \$ 1,000.00

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The property owner was cited for the following violations of the Town of Davie Code:

6-9.2: Abandoned Real Property Registration

12-33(U): Nuisance -- Health Safety Welfare (pool sanitation/safety)

The recommended mitigation amount is equal to \$40,350.26; this amount will cover the town expenses and the amount may be considered for approval by the Town Council; thereafter, the respondent shall be given forty-five (45) days to pay the approved mitigated lien and fine amount.

DANIEL J. STALLONE  
CODE COMPLIANCE OFFICIAL

CFN # 108984640  
OR BK 48677 Pages 1723 - 1725  
RECORDED 11/19/09 11:22:34  
BROWARD COUNTY COMMISSION  
DEPUTY CLERK 1043  
#4, 3 Pages

**RETURN TO:**

TOWN OF DAVIE  
ATTN: TOWN CLERK  
6591 S.W. 45TH STREET  
DAVIE, FL 33314-3399

**THIS INSTRUMENT PREPARED BY:**

Meah Rothman Tell, Esq.  
11081 N.W. 12 Drive  
Coral Springs, Florida 33071  
(954) 733-5000

TOWN OF DAVIE  
CODE ENFORCEMENT  
SPECIAL MAGISTRATE

THE TOWN OF DAVIE, Broward  
County, Florida, A Florida  
Municipal corporation,

CASE NO. 09-0848

Petitioner,

v.

MAYRA L. INOA and  
DEUTSCHE BANK NATIONAL TRUST  
COMPANY,

Respondents.

**ORDER IMPOSING**  
**MUNICIPAL CODE ENFORCEMENT LIEN**  
**AND ADMINISTRATIVE FINE**

**THIS MATTER**, having come before the TOWN OF DAVIE, SPECIAL MAGISTRATE on the 27<sup>TH</sup> day of October, 2009, on the Motion of the Town Code Enforcement officer, pursuant to notice, to impose sanctions against said Respondents, MAYRA L. INOA and DEUTSCHE BANK NATIONAL TRUST COMPANY, for failure to comply with the Final Order of the **Special Magistrate** in this matter, pursuant to the authority of section 162.09, Florida Statutes, and the Special Magistrate having heard the testimony of the Town Code Enforcement Officer, the witnesses and having reviewed its file in the matter, finds as follows:

A. That Respondents have violated section(s) 6-9.2 and 12-33 (U) of the Davie Town Code, contrary to the terms of the Final Order entered in the above styled matter on July 29, 2009.

B. The aforesaid violations of the aforementioned section(s) of the Davie Town Code are a violation of the aforesaid Final Order, which has been served upon Respondents.

C. Since the date heretofore set for compliance by the aforesaid Final Order, Respondents have failed to comply therewith in the following respects:

1. For Seventy-five (75) days prior to the date of this meeting the aforesaid violation of Section(s) 6-9.2 and 12-33 (U) of the Davie Town Code continued to exist uncorrected and unabated.

D. Respondents have accordingly violated the Final Order of the **Special Magistrate** as detailed above, and the said violations shall be punished by fine of \$500.00 for each day each such violation continued to exist after the date set for compliance, the same being Seventy-five (75) days for each of the aforesaid violations; the total administrative penalty being SEVENTY-FIVE THOUSAND AND 00/100THS (\$75,000.00) U.S. DOLLARS for said violations.

It is thereupon **ORDERED** as follows:

1. Respondents shall be fined the sum of \$500.00 for each day of each violation of the Davie **Special Magistrate's** Final Order in this matter as aforesaid, for a total administrative penalty of SEVENTY-FIVE THOUSAND AND 00/100THS (\$75,000.00) U.S. DOLLARS for said violations.

2. The Town of Davie Attorney is hereby directed to file and record this Order among the Public Records of Broward County, Florida which shall constitute a lien against any personal property of Respondents, and the following described real property of Respondents in the amount of SEVENTY-FIVE THOUSAND AND 00/100THS (\$75,000.00) DOLLARS as provided in section 162.09, Florida Statutes, and to proceed with the enforcement and collection of same

as provided by law, to wit:

7751 N.W. 39<sup>th</sup> Street, Davie, Florida a/k/a

LEGAL DESCRIPTION:

Lot 6, Block 4, DRIFTWOOD ESTATES NO. 17, Plat Book 51, Page 25 of the Public Records of Broward County, Florida.

Parcel Identification No. 51-41-03-18-0360

3. 5. That a cost recovery fine in the amount of FIVE HUNDRED AND 00/100 (\$500.00) DOLLARS to cover the costs incurred by the Town is hereby assessed. Said amount is due within thirty (30) days of the date of this Order, and if not paid, may constitute a lien against any real or personal property of Respondents. In the event that said fine is not paid within the time allotted for payment, the Town Clerk of the Town of Davie is hereby directed to file and record this Order among the Public Records of Broward County, Florida, which shall constitute a lien against any real or personal property of Respondents in the amount of FIVE HUNDRED AND 00/100 (\$500.00) DOLLARS as provided in Section 162.09, Florida Statutes, and to proceed with the enforcement and collection of same as provided by law.

**DONE AND ORDERED** in Davie, Broward County, Florida, this 28<sup>th</sup> day of October, 2009.

TOWN OF DAVIE

BY: 

MEAH R. TELI, ESQUIRE  
SPECIAL MAGISTRATE

Copies furnished:  
MAYRA L. INOA and  
DEUTSCHE BANK NATIONAL TRUST  
COMPANY  
(CERTIFIED MAIL)  
Clerk, Code Enforcement  
Town Prosecutor  
Code Inspector